

1 IN THE CIRCUIT COURT FOR BALTIMORE COUNTY, MARYLAND

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3 STATE OF MARYLAND, :
4 Plaintiff :
5 VS : No. C-03-CR-20-002741
6 DAVID PERRY KIRTZ, :
7 Defendant :
8 -----/

9
10 FINAL DISPOSITION

11 May 11, 2021

12

13 BEFORE:

14 HONORABLE ROBERT E. CAHILL, JR.

15

16 APPEARANCES:

17 For the State:

18 LISA DEVER, ASSISTANT STATE'S ATTORNEY

19 For the Defendant:

20 RAPHAEL SANTINI, ESQUIRE

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P R O C E E D I N G S

(11:34 a.m.)

MS. DEVER: Good morning, Your Honor.

4 For the record, Lisa Dever on behalf of the State. I
5 have State versus David Kirtz in for final disposition
6 this morning. That case number is C-03-CR-20-002741.

MR. SANTINI: Good morning, Your Honor.

8 For the record, Raphael Santini. It's good to see you.
9 Mr. Kirtz is here to my right.

10 THE COURT: Okay, that's with a K?

11 MS. DEVER: Yes, K-i-r-t-z.

12 THE COURT: There it is. Okay. Are we
13 ready to go forward?

14 MR. SANTINI: We are, Your Honor.

15 THE COURT: Okay. Mr. Santini, I will
16 hear from you first.

17 MR. SANTINI: Your Honor, we will just
18 submit on the plea. It was a binding plea.

19 THE COURT: It was binding PBJ on both
20 counts?

21 MR. SANTINI: Yes.

22 MS. DEVER: Your Honor, if I may.

23 THE COURT: Yep.

24 MS. DEVER: The Defendant was charged
25 initially with the second degree rape, third degree sex

1 offense, fourth degree sex offense, and second degree
2 assault of H [REDACTED] C [REDACTED].

3 When we were here on the date of the
4 plea, we did the plea on that date. But the victim and
5 her family could not be here. So we asked that
6 sentencing be held at a later time.

7 The condition of the plea. The
8 Defendant was 17 years old at the time this event
9 occurred. He was charged as an adult because of the
10 second degree rape.

11 The plea negotiations were that he would
12 agree to stay here as an adult, that we would agree to
13 go on a fourth degree sex offense and second degree
14 assault, that we would agree that he would get a
15 probation before judgment on the sex offense, not have
16 to register at this point in time, and that he would be
17 placed on three years supervised probation, three years
18 COMET supervision. And that was binding upon the
19 Court.

20 THE COURT: Right.

21 MS. DEVER: So it was a binding plea.
22 But I did want -- and the victims were always, from the
23 beginning, very involved in the process of this case.
24 If you will recall, the Defendant, as I indicated, was
25 17.

1 He was a senior at the Concordia School.
2 It's a prep school here in Towson. H [REDACTED] was 13 years
3 old at the time. She was in the 8th grade. For
4 whatever reason, the Concordia School has, I guess, the
5 middle schoolers and the high schoolers matriculating
6 in the hallways together.

7 The Defendant had an eye out for H [REDACTED].
8 And, ultimately, H [REDACTED] indicated that even in 8th
9 grade he was contacting her and asked her to go do
10 stuff.

11 To her, that meant going out and doing
12 sexual stuff. And she was never interested. Always
13 told him no. And he would then be mean to her. This
14 event occurred after a bonfire that was at the school.
15 I believe it was a talent show and bonfire at the
16 school.

17 H [REDACTED] was there, looking for a ride
18 home. She accepted a ride from the Defendant, if you
19 recall, because he had two other friends with him and
20 he was sleeping at their house.

21 And she knew that, based on their
22 conversation. And so she felt comfortable that he
23 would drop her off first and then go home with his
24 friends.

25 That is not what happened. Instead, he

1 dropped his friends off first. Took her to a dark
2 parking lot behind a church and began doing stuff to
3 her.

4 She said no. Ultimately, he was able to
5 digitally penetrate her while she was in the backseat
6 of the car trying to get away. Ultimately, he stopped.
7 He was mad. Drove her home and then went to the house.

8 H [REDACTED] did not tell anybody right away.
9 I think she told the family baby-sitter at that point
10 in time, but nobody else. And, ultimately, she did
11 tell her parents what happened.

12 And her parents reached out to one of
13 the boys' parents to find out if H [REDACTED] was, in fact,
14 in the car. And that boy lied and said, no, H [REDACTED] was
15 not in the car.

16 And, ultimately, that kind of started
17 this cycle of lying. And it turns out that the
18 Defendant texted his friends to say, hey, if anybody
19 asks, say H [REDACTED] wasn't in the car.

20 And so he starts with getting his
21 friends to lie for him. He sends text messages to this
22 boy Christian about how, um, his life is going to be
23 ruined. She's a liar. His girlfriend is not going to
24 speak to him again.

25 It's all about him and how his life will

1 be ruined if these allegations come out. Ultimately,
2 H [REDACTED] did go to the police. Police did investigate.
3 We did get those messages asking Christian to lie.

4 And then further, the Defendant started,
5 you know, talking about the victim is a liar.
6 Throughout the school, she has to contend with how
7 she's the person who is lying, she's the person who is
8 making it up all to get back at him.

9 And, you know, in the microcosm of high
10 school, I don't think any one of us would say, hey, if
11 I get to go back in time, I'd like to go back into
12 middle school or high school.

13 It is a big deal that her reputation, as
14 a result of him sexually assaulting her, she becomes
15 the bad person in all of this.

16 I will say that there were similar
17 investigations in Harford County as well. I don't
18 think that any charges will come out of that. But this
19 was not the first time -- this is not the first
20 investigation that police had with him.

21 We did, in fact, do this particular plea
22 because we felt that, at 17, he should not have to
23 register for the rest of his life for something he does
24 at 17.

25 We are asking for probation before

1 judgment because if the Court did put him back in
2 juvenile court, he wouldn't have to register anyway.

3 But I want the Court and I want the
4 Defendant to be very clear that if he violates on any
5 of the conditions of probation -- and there is an
6 addendum, Your Honor. I am not sure you have it.

7 Do you have the signed addendum in the
8 court --

9 UNIDENTIFIED FEMALE: I have page 1 of
10 an addendum, but I don't have a second page.

11 MS. DEVER: So let me give you the two
12 pages. The second page is the signed page. I don't
13 know.

14 So, Your Honor, the specific conditions
15 are, obviously, no contact with H [REDACTED] or her immediate
16 family. He needs to also have no unsupervised contact
17 with any child under the age of 18, successfully
18 complete any treatment programs to include drug or
19 alcohol treatment.

20 He is also not to use the internet to
21 send any nude pictures of children and/or himself to
22 anybody and follow all of the recommendations of parole
23 and probation.

24 H [REDACTED] is here, Your Honor, with her
25 mother and father. She would like to give victim

1 impact, if I may call her at this time.

2 THE COURT: Absolutely.

3 MS. DEVER: All right, H [REDACTED], you need
4 to say your name for the record.

5 H [REDACTED] C [REDACTED]: H [REDACTED] C [REDACTED].

6 MS. DEVER: Okay, and what did you want
7 to tell the Court?

8 H [REDACTED] C [REDACTED]: Should I read this?

9 MS. DEVER: It doesn't matter.

10 H [REDACTED] C [REDACTED]: It is hard to know how
11 to start. As I am thinking about it and start writing
12 it, it hits me and I start to shake and get anxiety
13 attacks.

14 I just think to myself, why me? I will
15 never understand it. They say bad things happen to
16 good people or everything happens for a reason. But I
17 still have not found out the reason why this is
18 happening to me.

19 I was only 13 years old. I was so
20 uncomfortable. I was so scared. The days after it
21 happened, I didn't even realize what had actually
22 happened to me.

23 It honestly did not hit me mentally
24 until about a year and a half after the assault. I
25 struggled with anxiety and depression, and this has

1 made it worse.

2 My mood and actions have changed when I
3 am around people I do not really know. I become
4 introverted and uncomfortable. I have become
5 introverted and uncomfortable because I don't know who
6 I can trust.

7 I am sensitive to any physical touch,
8 even from my family. Whenever I have a depression
9 episode and cry about things that have nothing to do
10 with the assault, I will end up bringing all of it into
11 my episode and make it so much worse.

12 I start to feel worthless and ashamed.
13 I just wish I could take an eraser and remove it all
14 from my memory. I am still working through it with the
15 counselor as this is extremely mentally and emotionally
16 exhausting. The more I talk about it, the more
17 memories I remember from the night it happened.

18 David, you took a part of me that night
19 that I can never get back. You also accused me of
20 lying about it to your parents, to the school, and to
21 your friends.

22 I know you thought you were going to get
23 away with this. I am just glad you didn't. I hope you
24 learned your lesson and that you can sincerely change
25 your behavior.

1 That is the reason I chose to come
2 forward and speak up and take the hard way because I
3 did not want you doing this to anyone else. I also
4 want to help other girls to do the same.

5 I want them to know they are not alone
6 and encourage them to tell someone. I must live with
7 this for the rest of my life. And it will continue to
8 affect me, but I will not let it get the best of the
9 me.

10 Even though you tried to take it away, I
11 found my worth and realize how strong I am throughout
12 this process. All the pain and suffering I have gone
13 through and continue to go through, I just hope one day
14 it will save someone else.

15 MS. DEVER: H [REDACTED], how old are you now?

16 H [REDACTED] C [REDACTED]: Fifteen.

17 MS. DEVER: And what grade are you in?

18 H [REDACTED] C [REDACTED]: I am a freshman.

19 MS. DEVER: Thank you.

20 THE COURT: Where do you go to school?

21 H [REDACTED] C [REDACTED]: John Carroll.

22 THE COURT: Okay. So you are a freshman
23 at JC --

24 H [REDACTED] C [REDACTED]: Yes.

25 THE COURT: -- as they called it back in

1 the day?

2 H [REDACTED] C [REDACTED] : Yeah.

3 THE COURT: How are you doing in school?

4 H [REDACTED] C [REDACTED] : It's a lot of work, but
5 I am like getting it all done and everything. Even
6 like when a lot gets in the way, I still get it done
7 most of the time.

8 THE COURT: Your parents are here. You
9 don't want to --

10 H [REDACTED] C [REDACTED] : Yeah.

11 THE COURT: So what are your plans? Are
12 you going to go to college?

13 H [REDACTED] C [REDACTED] : Yes. I want -- well, I
14 don't know like how it's going to be. But I just
15 started doing gymnastics again. I took a break. And I
16 want to go to LSU or Alabama for gymnastics. And then
17 if I don't want to do that, I will probably still go to
18 one of them or go to Clemson.

19 THE COURT: That's great. Those are
20 lofty goals, and you should pursue them.

21 H [REDACTED] C [REDACTED] : Yes.

22 THE COURT: And I'm happy for you.

23 H [REDACTED] C [REDACTED] : Hard schools to get
24 into, but hopefully I will get smart enough to --

25 THE COURT: Clemson is. Clemson

1 especially. I want to thank you for coming in. You
2 have been very brave. And I appreciate your testimony
3 here today.

4 H [REDACTED] C [REDACTED]: Yes.

5 MS. DEVER: Your Honor, if I could give
6 you a copy of the victim impact statement for the file.

7 THE COURT: Sure.

8 MS. DEVER: That is all. Thank you,
9 Your Honor.

10 THE COURT: Mom or dad, anything you
11 want to tell me? You don't have to speak, if you don't
12 want to. But I want to give everybody the opportunity.

13 THE COURT: Okay. Thank you. All
14 right, Mr. Santini.

15 MR. SANTINI: Yes. Your Honor, my
16 client waives his right of allocution. The only thing
17 I would ask is waive the supervision fee. And I will
18 qualify him for post trial rights, unless Your Honor
19 wants to do it.

20 THE COURT: Okay. Anything you want to
21 say, Mr. Kirtz? You don't wish to speak?

22 THE DEFENDANT: No, sir.

23 THE COURT: All right. So consistent
24 with the agreement reached by and between the parties,
25 I will offer this Defendant a probationary disposition

1 under 6-220 of each count placing him on three years
2 supervised probation.

3 This will be supervised under the strict
4 terms and conditions of the COMET program. I will
5 waive parole and probation supervisory fees.

6 MR. SANTINI: Thank you.

7 THE COURT: There's to be absolutely no
8 contact with H [REDACTED] C [REDACTED]. And I am a little
9 disturbed about the things that I heard about I guess
10 communications on social media. Is that what happened?

11 You are not to say a word about this
12 young woman on any form of social media. Do you
13 understand me?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: If that comes back, if it
16 comes back to me, that will be a strict -- that would
17 be a clear violation of the terms and conditions of my
18 probation.

19 So there's no contact directly or
20 indirectly with or about H [REDACTED] C [REDACTED]. Do you
21 understand that?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Do you need any elaboration?

24 THE DEFENDANT: (No audible response).

25 THE COURT: Okay. And I will advise

1 H [REDACTED] and her family if there are any evidence or
2 information comes forward about things on the internet,
3 I am happy to have a hearing on the issue.

4 I will call Mr. Santini in, and we will
5 have --

6 MR. SANTINI: Thank you.

7 THE COURT: -- a hearing on the issue.

8 MR. SANTINI: The judge is offering you
9 probation for judgment. What that means to you is you
10 are not going have a conviction. Okay. In order to
11 accept that, we have to waive our right to appeal.

12 Do you wish to accept that, correct?

13 THE DEFENDANT: Yeah.

14 MR. SANTINI: Okay. You also have 90
15 days to file a motion for modification? Okay. Do you
16 understand?

17 THE DEFENDANT: Um-hum.

18 THE COURT: Okay. Thank you all very
19 much, folks.

20 MS. DEVER: Thank you, Your Honor. May
21 we be excused?

22 THE COURT: Yes.

23 MS. DEVER: Thank you.

24 (The hearing concluded at 11:47 a.m.)

25

CERTIFICATE

I hereby certify that the proceedings in
the matter of State of Maryland vs David Perry Kirtz,
No. C-03-CR-20-002741 heard in the Circuit Court for
Baltimore County, Maryland on May 11, 2021 were
recorded by means of audiotape.

I further certify that, to the best of
my knowledge and belief, page numbers 1 through 15
constitute a complete and accurate transcript of the
proceedings as transcribed by me.

I further certify that I am neither a
relative to nor an employee of any attorney or party
herein, and that I have no interest in the outcome of
this case.

In witness whereof, I have affixed my
signature this 19th day May, 2021.

Transcriber

21 || Transcribed from electronic recording by:

22 Michelle S. Parke
Transcriber